

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Ondre Trevez Hunter,)	
)	Civil Action No. 6:16-31-MGL-KFM
Plaintiff,)	<u>REPORT OF MAGISTRATE JUDGE</u>
)	
vs.)	
)	
Kenny Boone, Joey Norris, and Joyce Brunson,)	
)	
Defendants.)	
)	

This matter is before the court on the plaintiff's motion for default judgment (doc. 30). Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the district court.

Federal Rule of Civil Procedure 55(a) provides that when a party "has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Rule 55(b) provides that a party must then apply to the court for a default judgment. *Id.* 55(b).

The plaintiff filed his complaint on January 6, 2016 (doc. 1), and service was authorized as to defendants Boone, Norris, and Brunson on January 12, 2016 (doc. 9). These defendants were served with the summons and complaint on March 9, 2016 (doc. 23). The defendants timely filed their answer on March 23, 2016 (doc. 21). See Fed. R. Civ. P. 12(a)(1)(A)(i) (providing defendant must serve answer within 21 days after being served with summons and complaint). The defendants then filed a motion for extension of time to file dispositive motions (doc. 26), which the undersigned granted on May 5, 2016 (doc. 28), extending the defendants' deadline to June 6, 2016.

On May 16, 2016, the plaintiff filed the motion for default judgment now before this court (doc. 30). He states that he objects to the defendants' motion for extension of time and further states as grounds for the motion that "the defendants' counselor didn't defend against the lawsuit after having been given proper notice" (doc. 30 at 1). The plaintiff's motion is meritless as the defendants timely filed their answer as set forth above. Accordingly, this motion should be denied.

IT IS SO RECOMMENDED.

June 11, 2016
Greenville, South Carolina

s/ Kevin F. McDonald
United States Magistrate Judge

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
300 East Washington Street
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).